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TO: Office of Petitions U.S. Patent and Trademark Office	571-273-8300	571-272-3225

FROM: Gerald Chan gerald.chan@bingham.com	(650) 849-4800	(650) 849-4960
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PAGES: (INCLUDING THIS COVER PAGE): 6

RE: U.S. Patent Application Serial No: 10/023,264
 Entitled: HEARING PROSTHESIS WITH AUTOMATIC
 CLASSIFICATION OF THE LISTENING ENVIRONMENT
 Filed: December 18, 2001
 Attorney Docket No. GNA7005162001 (Formerly 22645-7202)

MESSAGE:

Certificate of Mailing/Transmission (37 C.F.R. § 1.8(a)):

☒ Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Office of Petitions at Facsimile No. 571-273-8300.

Dated: September 27, 2006Name of Person Certifying: Sheila BadonPrinted Name: Sheila Badon

Enclosed:

- Response to Decision on Renewed Petition Claiming Benefit of Earlier Filing Date Under 37 CFR 1.55 (c).

For transmission problems, please call (650) 849-4825

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PA/S2189587.1/2024429-7005162001

SEP 27 2006 PATENT
GNA-7005162001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Nils Peter Nordqvist, et al.

Serial No.: 10/023,264

Filed: December 18, 2001

For: HEARING PROSTHESIS WITH
AUTOMATIC CLASSIFICATION OF THE
LISTENING ENVIRONMENT

Attorney Handling Petition:

Paul Shanoski

Attn: Paul Shanoski
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**RESPONSE TO DECISION ON RENEWED PETITION CLAIMING BENEFIT OF
EARLIER FILING DATE UNDER 37 CFR 1.55(c)**

Dear Sir:

In response to the Decision On Renewed Petition mailed on August 30, 2006, Applicants respectfully submit the following remarks and request for reconsideration.

On April 13, 2006, Applicants petitioned for acceptance of a claim of priority that was presented in the above-referenced non-provisional application after the time period provided by paragraph 37 C.F.R. § 1.78(a)(2)(ii). The petition was accompanied with, among other documents, (1) a Request for Continued Examination, (2) a claim of priority, (3) an amendment inserting the relate-back statement in the specification, and (3) an Application Data Sheet ("ADS") Under 37 CFR 1.76(b)(6).

According to the Decision On Renewed Petition, the renewed petition is dismissed because the ADS does not indicate the relationship between the present application and the PCT application PCT/DK01/00226. However, 37 C.F.R. § 1.76(b)(6) states:

FOREIGN PRIORITY INFORMATION.

This information includes the application number, country, and filing date of each foreign application for which priority is claimed, as well as any foreign application having a filing date before that of the application for which priority is claimed. Providing this information in the application

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GNA-7005162001

data sheet constitutes the claim for priority as required by 35 U.S.C.
119(b) and §1.55(a).

(Emphasis Added)

As such, according to 37 C.F.R. § 1.76(b)(6), providing the "application number, country, and filing date" in the ADS "constitutes the claim for priority," and therefore, does not require Applicants to explicitly describe the relationship between the present application and the applications listed in the ADS.

In case there is any doubt as to how the PCT application is related to the present application, Applicants had also previously submitted with the petition, an amendment to the specification (see EXHIBIT A) to include the following statement regarding claim of priority:

This application is a continuation of PCT Patent Application
PCT/DK01/00226, filed April 4, 2001, which claims priority from Danish
Patent Application PA 2000 00554, filed April 4, 2000.

As such, there should be no question regarding the relationship between the present application and the applications listed in the ADS.

For the foregoing reasons, Applicants respectfully request that the Office reconsiders the April 13, 2006 petition.

The Commissioner is authorized to charge the appropriate fee under 37 C.F.R. § 1.136(a), and any fee in connection with this petition, to Deposit Account No. 502518, referencing Attorney Docket No. 7005162001. If the Examiner determines that a telephone interview would advance handling of this matter, the Examiner is respectfully requested to contact the undersigned at (650) 849-4960.

DATE: September²⁷, 2006

Respectfully submitted,

By:



Gerald Chan
Registration No. 51,541

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Nils Peter Nordqvist, et al

Serial No.: 10/023,264

Filed: December 18, 2001

For: HEARING PROSTHESIS WITH
AUTOMATIC CLASSIFICATION
OF THE LISTENING
ENVIRONMENT

Confirmation No.: 5504

Group Art Unit: 2643

Examiner: Ensey, Brian

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450AMENDMENT

Dear Sir:

This paper is submitted in connection with the concurrently filed Request for Continued Examination and Petition Claiming Benefit of Earlier Filing Date Under 37 C.F.R. § 1.55(c).. Please amend the application as follows:

CERTIFICATE OF MAILING
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee', Express Mail Label No. EV347036332 US, in an envelope addressed to the Commissioner for Patents, Mail Stop RCE, P.O. Box 1450, Alexandria, VA 22313-1450.

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Date of Deposit
PA/52181074.1Sheila Badon
Sheila Badon

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AMENDMENT TO THE SPECIFICATION

Please insert at page 1, line 3, the following:

--RELATED APPLICATION DATA--

-- This application is a continuation of PCT Patent Application PCT/DK01/00226, filed April 4, 2001, which claims priority from Danish Patent Application PA 2000 00554, filed April 4, 2000.--

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REMARKS

The specification has been amended to insert related application data.

If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (650) 489-4960.

Respectfully submitted,

Dated: April 13, 2006

By: 

Gerald Chan
Reg. No. 51,541

Bingham McCutchen LLP
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